

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

THE ROMAN CATHOLIC DIOCESE OF
BROOKLYN, NEW YORK

Plaintiff,

v.

GOVERNOR ANDREW M. CUOMO, in his
official capacity,

Defendant.

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No. 1:20-CV-4844-NGG-CLP

**THIRD SUPPLEMENTAL DECLARATION OF RANDY M. MASTRO IN FURTHER
SUPPORT OF THE ROMAN CATHOLIC DIOCESE OF BROOKLYN, NEW YORK'S
APPLICATION FOR A PRELIMINARY INJUNCTION**

I, Randy M. Mastro, hereby declare under penalty of perjury pursuant to 28 U.S.C.

§ 1746, and state as follows:

1. I submit this Third Supplemental Declaration to provide the Court with newly-discovered and highly-relevant evidence that I first became aware of late last night when a civil complaint was forwarded to me that was filed earlier in the day in the Southern District of New York – *Congregation Yesheos Yakov v. Cuomo*, Case No. 7:20-cv-08580.

2. Among the allegations in that complaint is a description of an October 6, 2020 phone call between the Governor and "Jewish Leaders," in which the Governor is quoted as saying his Executive Order restricting services at all "Houses of Worship" in certain geographic areas is *"not a highly nuanced, sophisticated response. This is a fear driven response. . . [T]his is not a policy being written by a scalpel, this is a policy being cut by a hatchet. . . . very blunt. . . It's not the best way to do it, but . . . [if] we can get the numbers down in the zip codes, the*

anxiety comes down, and we can have a smarter, more tailored approach, . . . and then we can have a more intelligent, sophisticated policy."

3. The complaint contains the following link to an audio clip of that conversation, in which the Governor can be heard saying those words, entitled, "Exclusive Full Recording: Jewish Leaders Say They Were 'Stabbed in the Back' by Cuomo, HaModia online, and dated October 12, 2020:

<https://hamodia.com/2020/10/12/exclusive-recording-jewish-leaders-say-stabbed-back-cuomo/>.

4. The complaint contains a transcription of certain of Governor Cuomo's remarks that appears below here and the Governor can be heard saying on the audio clip:

I don't disagree with you, uh, and look, I'm a hundred percent frank and candid. Uh, *this is not a highly nuanced, sophisticated response. This is a fear driven response. You know, this is not a policy being written by a scalpel, this is a policy being cut by a hatchet*, it's just a *very blunt*, uh, I didn't propose this, you know, it was proposed by the mayor [Blasio] uh in the city. I'm trying to uh sharpen it and make it better, but it's out of fear, people see the numbers going up, uh close everything! *Close everything! It's not the best way to do it, but it is a fear drive response, the virus scares people, hopefully we get the numbers down in the zip codes, the anxiety comes down, and then we can have a smarter, more tailored approach.* Your point is right, why close every school? Why don't you test the schools and close the ones that have a problem? I know, but, first, I don't know that we have the resources to do that now, but I can tell you honestly, uh, the [] fear is too high, to do anything other than uh. Let's do everything we can to get the infection rate down now, close the doors, close the windows, that's where we are. Uh [Health] commissioner do you want add anything?

You could say there's a better way to do this. I know. But we're dealing with emotion and fear as much as anything. And I'll tell you, its New York City, we have a real problem with fear and anxiety, and people losing confidence in the City, and who's moving out, uh and who's afraid . . . so *it is a blunt policy, I agree with you*, uh but at this point uh I don't think that we can do anything more sophisticated. Hopefully we get it under control, *it's a few weeks, people take a deep breath, and then we can have a more intelligent, sophisticated policy.*

5. One of my colleagues has listened to the full audio and confirmed (1) the accuracy of the transcription and (2) recognizable voice of Governor Cuomo as the speaker.

I declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct.

Executed on October 15, 2020 in New York, New York.

/s/ Randy M. Mastro